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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36062]

Lehigh Railway, LLC—Lease Exemption Containing Interchange Commitment—

Norfolk Southern Railway Company

Lehigh Railway, LLC (LRWY), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease from Norfolk Southern Railway Company (NSR), and to operate, approximately 56.0 miles of rail line between milepost IS 269.5 at Athens, Pa., and milepost IS 213.5 at Mehoopany, Pa., in Bradford and Wyoming Counties, Pa., including any sidings, sidetracks, yards, or facilities presently owned by NSR that are accessed via the line.

LRWY states that LRWY and NSR have entered into an amended lease agreement¹ (Amended Lease) which served to renew the original lease agreement (Original Lease) that the parties had previously entered into on October 28, 2008.² According to LRWY, the Amended Lease extends the term of the Original Lease to December 31, 2023, and includes other changes. As required under 49 C.F.R.

¹ LRWY filed a confidential, complete version of the Amended Lease with its notice of exemption to be kept confidential by the Board under 49 C.F.R. § 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 C.F.R. § 1104.14(b).

² LRWY was granted authority to lease and operate the rail line in Lehigh Railway, LLC—Lease & Operation Exemption—Norfolk Southern Railway, FD 35192 (STB served Nov. 14, 2008).

§ 1150.43(h)(1), LRWY has disclosed in its verified notice that the Amended Lease contains an interchange commitment in the form of lease credits. LRWY states that these credits were part of the Original Lease and the terms of the credits in the Amended Lease remain unchanged. LRWY has provided additional information regarding the interchange commitment, as required by 49 C.F.R. § 1150.43(h). LRWY notes that it will continue to be the operator of the line.

LRWY certifies that the projected annual revenues as a result of the proposed transaction will not result in LRWY's becoming a Class II or Class I rail carrier and will not exceed \$5 million.

The transaction may be consummated on or after October 15, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by October 7, 2016 (at least seven days prior to the date the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36062, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on applicant's representative, Kevin M. Sheys, Nossaman LLP, 1666 K Street, N.W., Suite 500, Washington, DC 20006.

According to LRWY, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

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Decided: September 27, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.